

State Board of Equalization

OPERATIONS MEMO

For Public Release

No: 1179

Date: July 23, 2010

SUBJECT: Assembly Bill x8 6 – Fuel Tax Swap

I. GENERAL

Assembly Bill x8 6, along with Senate Bill 70 allowed for both an excise tax rate increase and a corresponding sales and use tax rate decrease on sales of motor vehicle fuel (MVF). Effective July 1, 2010, the new statewide sales and use tax rate on sales of MVF was reduced to 2.25 percent. A corresponding MVF (gasoline) excise tax rate increase of 17.3 cents per gallon also took effect July 1, 2010 resulting in a new MVF excise tax rate of 35.3 cents per gallon. The tax rate on aviation gasoline remains at 18 cents per gallon as it was excluded from the tax increase.

In addition, beginning July 1, 2011, under these bills, the sales and use tax rate will increase by 1.75 percent on sales of diesel fuel. Users currently exempt from the excise tax on diesel fuel will be exempt from the sales and use tax rate increase if an exemption certificate is furnished to the seller at the time of the purchase.

A diesel fuel excise tax rate decrease of 4.4 cents per gallon will also take effect on July 1, 2011. The new diesel fuel excise tax rate will be 13.6 cents per gallon.

Pursuant to these bills, the BOE is required to annually raise or lower the excise tax rate on MVF and diesel fuel so the same amount of revenue (by estimation) is generated to equal what would have been generated had the sales and use tax rates on MVF and diesel fuel had remained unchanged.

The MVF and diesel fuel excise tax collection points did not change. Suppliers continue to be responsible for collecting the tax at the new rates upon removal from the terminal rack or entry into California.

Below is a table describing the rate changes associated with the bill.

Rates Applicable to Motor Vehicle Fuel (Gasoline)

	As of 5/1/10	Effective 7/1/10	Effective 7/1/11	Effective 7/1/12	Comments
Motor Vehicle Fuel Tax - excluding aviation gasoline (per gallon)	\$0.18	\$0.353	To Be Determined	To Be Determined	For the 2011-2012 fiscal year and thereafter, the Board of Equalization (BOE) determines the rates on or before March 1 immediately preceding the applicable fiscal year.
Floor Stock Tax on MVF - excluding aviation gasoline (per gallon)		\$0.173	N/A	N/A	One-time return and payment due by August 31, 2010.
Sales and Use Tax (including applicable district taxes)	8.25%	2.25%	2.25%	2.25%	Partial exemption from the state portion of the sales and use tax applies to Motor Vehicle Fuel, effective July 1, 2010.
Sales and Use Tax Prepayment Rate (per gallon)	\$0.185	\$0.055	To Be Determined	To Be Determined	In general, the BOE determines the rate by November 1 of the year prior to the effective date of the new rate (April 1).

Rates Applicable to Diesel Fuel

	As of 5/1/10	Effective 7/1/10	Effective 4/1/11	Effective 7/1/11	Effective 7/1/12	Comments
Diesel Fuel Tax - (per gallon)	\$0.18	\$0.18	\$0.18	\$0.136	To Be Determined	For the 2012-2013 fiscal year and thereafter, the BOE determines the rates on or before March 1 immediately preceding the applicable fiscal year.
Sales Tax (including applicable district taxes)	8.25%	8.25%	8.25%	9.00%*	9.00%*	Increase of 1.75%, effective July 1, 2011. Dyed diesel fuel and clear diesel fuels that are exempt from the excise tax or receive a refund of the excise tax are exempt from the 1.75% sales tax increase.
Sales Tax Prepayment Rate (per gallon)	\$0.16	\$0.16	To Be Determined	To Be Determined	To Be Determined	In general, the BOE determines the rate by November 1 of the year prior to the effective date of the new rate (April 1).

*The state-wide sales and use tax rate decreases by 1 percent effective July 1, 2011, as a result of prior legislation.

II. NOTICE TO TAXPAYERS

A [Special Notice](#) was mailed to fuel suppliers, wholesalers and retailers. A copy of the notice is available on the BOE's website.

III. REVISION TO SALES AND USE TAX RETURN FORMS

There will be minimal changes to the BOE-401-GS, *State, Local, and District, Sales and Use Tax Return*, the BOE-401-DB, *Prepayment of Sales Tax on Fuel Sales*, and the BOE-531-G, *Schedule G – Fuel Sellers Supplements to Sales and Use Tax Return*.

Section D – *State Tax Exemption on Motor Vehicle Fuel (MVF)* has been added to the 401-GS. This section allows the MVF to be reported at the lower state tax rate.

The BOE-531-G, Schedule G and the 401-DB have been revised to reflect the new sales and use tax prepayment rate for MVF of 5.5 cents per gallon.

IV. REVISION TO MOTOR VEHICLE FUEL TAX RETURN FORM

The BOE 501-PS, *Supplier of Motor Vehicle Fuel Tax Return* and associated schedules are being updated to accommodate the rate change and accept reporting of the multiple rates that apply to motor vehicle fuel products.

V. NEW STORAGE TAX RETURN FORM

A new return for reporting the gallons in storage as of July 1, 2010, BOE-501-PK, *Return for Motor Vehicle Fuel Owned on July 1, 2010*, is now required from all suppliers, wholesalers, and retailers. This is a new return form and is used to report the tax due on MVF, excluding aviation gasoline, in inventory at 12:01 a.m. on July 1, 2010. The inventory will be taxed at a rate of 17.3 cents per gallon. The return is due to the BOE with payment made to the State Controller on or before August 31, 2010.

VI. REVISIONS TO OTHER SALES AND USE TAX, AND SPECIAL TAXES FORMS AND PUBLICATIONS

Compliance and audit forms as well as other affected publications will be revised. When completed, the revised forms and publications will be posted to the internet and/or distributed to users upon receipt of new stock.

VII. CHANGE IN REPORTING BASIS FOR FUEL RETAILERS

In an effort to streamline the general processing of the sales and use tax returns, the reporting basis for the monthly fuel retailers will be changed. All fuel retailers presently filing on a monthly basis were changed to either a quarterly or quarterly prepayment basis effective July 1, 2010. Between the months of July 1, 2010 and September 30, 2010, staff will not be able to

register fuel retailers for a monthly reporting basis. After October 1, 2010, staff should not register fuel retailers with a monthly reporting basis unless it is absolutely necessary.

VIII. eFILING

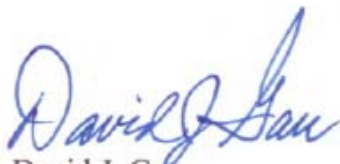
The BOE eFiling system for retailers and distributors of MVF will be updated to calculate the sales and use tax amounts due on the sales of partially exempt MVF. The updated return will be available October 1, 2010. The distributor's return will also reflect the revised sales and use prepayment amount of 5.5 cents per gallon on the sale of MVF starting with the July 2010 return period.

The Motor Fuels eFiling guidelines and requirements are also being updated to accommodate the rate changes and other new filing requirements resulting from the legislation. The updated system will be available for Motor Vehicle Fuel Suppliers to e-file their July 2010 Supplier Return by August 31, 2010.

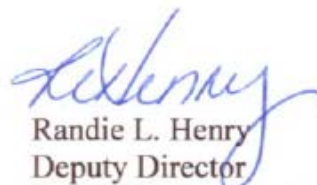
The new storage tax return, BOE-501-PK, *Return for Motor Vehicle Fuel Owned on July 1, 2010* will not be available for eFiling.

IX. OBSOLESCENCE

This Operations Memo will become obsolete when the information contained herein is incorporated into the appropriate manuals.



David J. Gau
Deputy Director
Property and Special Taxes Department



Randie L. Henry
Deputy Director
Sales and Use Tax Department